

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

DANIEL KLEEBERG, LISA STEIN, and
AUDREY HAYS,

Plaintiffs,

v.

LESTER EBER; ALEXBAY, LLC f/k/a
LESTER EBER, LLC; CANANDAIGUA
NATIONAL CORPORATION d/b/a
CANANDAIGUA NATIONAL BANK &
TRUST; ELLIOT W. GUMAER, JR.;
EBER BROS. & CO., INC.; EBER BROS.
WINE AND LIQUOR CORPORATION;
EBER BROS. WINE & LIQUOR
METRO, INC.; EBER-CONNECTICUT,
LLC; and WENDY EBER,

Defendants.

Civil Action No. 16-CV-9517(LAK)

**MEMORANDUM IN SUPPORT OF
PLAINTIFFS' MOTION TO
WITHDRAW MOTION FOR
ENTRY OF DEFAULT OR
SANCTIONS AGAINST
DEFENDANT CANANDAIGUA
NATIONAL BANK**

Plaintiffs Daniel Kleeberg, Lisa Stein, and Audrey Hays, through undersigned counsel, submit this memorandum in support of their motion to withdraw their August 2, 2017 motion for entry of default or other sanctions against Defendant Canandaigua National Bank ("CNB").

On October 20, 2017, CNB filed its Answer in this case and served Plaintiffs with CNB's Initial Disclosures, demonstrating a desire to decide this case on its merits. Further, pursuant to other discussions and agreements between counsel, including a promise to meet all future deadlines in this matter, Plaintiffs

respectfully request that they be permitted to withdraw their pending motion against CNB in its entirety.

Respectfully submitted,

Dated: October 23, 2017

/s Brian C. Brook
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